



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/542,159	04/04/2000	Allen Havemose	AMI 99 0005	6141

32718 7590 11/04/2003

GATEWAY, INC.  
ATTN: SCOTT CHARLES RICHARDSON  
610 GATEWAY DR., Y-04  
N. SIOUX CITY, SD 57049

EXAMINER

OPIE, GEORGE L

ART UNIT	PAPER NUMBER
----------	--------------

2126

DATE MAILED: 11/04/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Page

Office Action Summary	Application No.	Applicant(s)	
	09/542,159	Havemose	
	Examiner	Art Unit	
	George L. Opie	2126	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

- 1) ☒ Responsive to communication(s) filed on 5 August 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3, 5-10, 12 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) ☐ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ☐ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5-10, 12 and 14-18 is/are rejected.
- 7) ☐ Claim(s) ☐ is/are objected to.
- 8) ☐ Claim(s) ☐ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ☐ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ☐ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) ☐.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

- |  |  |
|--|--|
| 14) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 17) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). <input type="checkbox"/> . |
| 15) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                              | 18) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                     |
| 16) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <input type="checkbox"/> . | 19) <input type="checkbox"/> Other:  |

Art Unit: 2126

## DETAILED ACTION

This Office Action is responsive to Amendment A, in which claims 1, 3, 8-10, 12 and 18 were amended, and claims 2, 4, 11, 13 and 19-20 were cancelled.

The Office acknowledges Applicant's inclusion of an electronic copy of the amendment on a 3½inch floppy disk, and the Office would like to thank Applicant for submitting the amendment in electronic form to expedite its processing.

1. The U.S. Patents used in the art rejections below have been provided as text documents which correspond to the U.S. Patents. The relevant portions of the text documents are cited according to page and line numbers in the art rejections below. For the convenience of Applicant, the cited sections are highlighted in the *text documents*. Consistent with Office procedure, the U.S. Patents corresponding to the *text documents* are also included with this action.

2. Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 5-6, 10, 12 and 14-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Nessett et al. (u.S. Patent 5,727,145).

As to claim 1, Nessett teaches a method for providing distributed functionality over a network (distributed object computing system, p5 7-24) comprising: receiving a request to perform a task on a first digital information appliance (request ... the client, p8 5-16) the task requiring a resource not included on the first digital information appliance (reference in order to communicate with a target object in a remote server, p13 29-43)

locating a second digital information appliance over a network (client performs a locate operation ... indicative of ... an object server identifier, p3 14-57) the second digital information appliance including the resource (servant (target object), p5 7-24)

Art Unit: 2126

transferring the request From the first digital information appliance to the second digital information appliance (marshal and physically transport information to and from servant objects, p8 5-16) so as to enable the task to be performed on the second digital information appliance (desired servant object on its host machine, p9 23-37)

returning a result of the performed task by the second digital information appliance to the first digital information appliance (transport mechanisms and facilities necessary to ... return a response to the client, p5 7-24)

wherein the request is received by a first program object on the first digital information appliance and the task is performed by a second program object on the second digital information appliance (client 20 receives a request which is transmitted to the target object for execution on the remote machine, p5 7-24) and

wherein locating includes utilizing an architecture administrator (ORB, p5 7-40) capable of at least one of finding and creating an instance of the second program object (ORB locates the appropriate server and, if necessary it operates to start up this server process, p14 1-12).

As to claim 3, Nessett (p5 27-47) teaches the interface dynamic base object and the implementation dynamic base object as recited.

As to claim 5, Nessett (p17 32-40) teaches that "[e]mbodiments of the present invention ... may be specially constructed for the required purposes".

As to claim 6, Nessett (p14 1-12) teaches "if it is determined that the identified server is already running, then control moves directly to step 310."

As to claims 10, 12 and 14-15, note the rejections of claims 1, 3 and 5-6 above. Claims 10, 12 and 14-15 are the same as claims 1, 3 and 5-6, except claims 10, 12 and 14-15 are apparatus claims and claims 1, 3 and 5-6 are method claims.

4. Claims 1 and 10 are rejected under 35 U.S.C. § 102 as being anticipated by the Admitted Prior Art (APA) disclosed in the Application background.

As to claim 1, the APA teaches the use of "digital information appliances (DIA) . . . interconnected with a network such as the INTERNET" for performing client/server processing functions, comprising "clients obtain access to the object servers by sending them messages" which represent requests to perform tasks involving server resources; ORB's are used to "locate the various distributed objects" and, "[w]hen the server object receives the message, it invokes the appropriate method and transmits the result back to the object client"

Art Unit: 2126

wherein an architecture administrator "ORB" is capable of at least one of finding and creating an instance of the second program object "locate the various distributed objects" and initiate an object instance.

5. Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7-9 and 16-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nessett in view of the APA.

As to claim 7, the APA teaches "purchases of goods and services are becoming common over the INTERNET." These "on-line" transactions include billing information, and it would have been obvious to combine/ encapsulate this in Nessett's client/server object processing, thereby computing the costs concomitant with the requested operations.

As to claim 8, see the discussion of claim 3 supra.

As to claim 9, Nessett teaches the server/client paradigm, which includes the recited linking and embedding as an inherent part of the distributed object system for retrieving referenced objects residing on other machines.

7. The prior art of record and not relied upon is considered pertinent to the applicant's disclosure. Each reference disclosed below is relevant to one or more of the Applicant's claimed invention.

U.S. Patent No. 5,689,644 to Narayanan et al. which teaches the recited object interfaces;

U.S. Patent No. 5,511,197 to Hill et al. which teaches the fundamental distributed object processing.

8. Response to Applicant's Arguments:

Applicant argues (claims 1 and 10) that Nessett does not teach the limitation of an "architecture administrator" as claimed. Despite Applicant's assertions, the

Art Unit: 2126

Nessett teachings do meet the architecture administrator and its recited functionality. Nessett discloses an object request broker (orb) that clearly reads-on Applicant's architecture administrator. Specifically, Nessett describes (p5 7-40) how the ORB locates an instance of the object as performed by the architecture administrator. This ORB manages/retrieves the system objects in the same way as the claimed administrator finds and creates an object. Nessett's teachings clearly show that the ORB is "capable of at least one of finding and creating" an object instance as broadly claimed.

Furthermore, the Admitted Prior Art (APA) provides details that also make obvious the claimed distributed functionality using an object administrator. As shown in the rejections of claims 1 and 10, the APA discloses all of the claimed elements. For instance, the APA describes distributed object systems with digital appliances interconnected through ORB management mechanisms. The APA goes on to refer to the fact that ORBs are "used to locate the various distributed objects" for servicing the requisite tasks. This prior art ORB citation clearly meets the administrator capable of finding/creating objects as recited. Applicant, however, argues that the ORB's are a single conduit for objects and therefore making the system vulnerable to failure through a single point. Although this may be true, it does not change the ORB functionality that reads-on the administrator limitation in its current condition. The issue is whether the ORB locates/creates objects as specified in the claims. Applicant's arguments fail to vitiate the fact that the ORBs do locate/generate objects as claimed.

Plainly, the language of claims 1 and 10 simply states that the "architecture administrator is capable of at least one of finding and creating" object instances. Thus, the analysis must properly focus on these words and the resulting scope of the claim. The manifest meaning of the administrator's locating and generating recitations clearly encompass the ORB operations as discussed supra, and the ORB means certainly function within the claimed administrator's penumbra. Applicant, however, argues that some of the ORB's ancillary characteristics detract from its fundamental locating/generating the object instances as claimed. Contrary to Applicant's contention, the ORB's memory requirements and other characteristics are irrelevant to the specific issue of the administrator's finding/creating object instances as claimed. Due to the fact that the recited limitations merely require an "administrator" that locates/generates objects, the requisite ORB functions are not eclipsed by its ancillary characteristics. Therefore, the ORB components fit precisely to meet the claimed architecture administrator which is capable of at least one of finding and creating object instances.

The scope of the claimed "architecture administrator" clearly transcends the more narrow scope that Applicant attempts to impute through argument. Claimed subject matter, not the specification is the measure of the invention.

Art Unit: 2126

Limitations in the specification cannot be read into the claims for the purpose of avoiding the prior art, *In re Self*, 213 USPQ 1,5 (CCPA 1982); *In re Priest*, 199 USPQ 11, 15 (CCPA 1978). The architecture administrator and its associated claim elements are clearly subject to a broad interpretation, as detailed in the rejections maintained above. The Examiner has a *duty* and *responsibility* to the public and to Applicant to interpret the claims *as broadly as reasonably possible* during prosecution (see *In re Prater*, 56 CCPA 1381, 415F.2d 1393, 162 USPQ 541 (1969) ). Likewise, the fact that Applicant has not narrowed the definition/scope of the current claims implies that Applicant intends an extensive coverage breadth of the claims, which is met by the cited prior art. Applicant should set forth claims in language that clearly, distinctly, unambiguously and uniquely define the invention. Consequently, the claimed distributed functionality utilizing an architecture administrator, in the manner recited in the pending claims does not constitute a non obvious improvement over the prior art.

Applicant's arguments, filed 5 August 2003, have been fully considered but are deemed to be unpersuasive. For the reasons detailed above, the rejections are maintained as set forth supra.

The Office acknowledges Applicant's inclusion of an electronic copy of the amendment on a 3½inch floppy disk, and the Office would like to thank Applicant for submitting the amendment in electronic form to expedite its processing.

9. THIS ACTION IS MADE FINAL.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

10. **Request for copy of Applicant's response on floppy disk:**

Please help expedite the prosecution of this application by including, along with your amendment response in paper form, an electronic file copy in WordPerfect, Microsoft Word, or in ASCII text format on a 3½ inch IBM format floppy disk. Please include all pending claims along with your responsive remarks. Only the paper copy will be entered -- your floppy disk file will be considered a duplicate

Art Unit: 2126

copy. Signatures are not required on the disk copy. The floppy disk copy is not mandatory; however, it will help expedite the processing of your application. Your cooperation is appreciated.

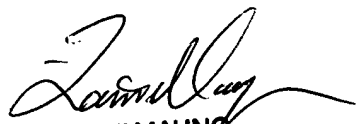
## 11. Contact Information:

### PTO Policy for Facsimile Submissions:

- ☐ AFTER-FINAL faxes must be signed and sent to (703) 746-7238.
- ☐ OFFICIAL faxes must be signed and sent to (703) 746-7239.
- ☐ NON OFFICIAL faxes should be sent to (703) 746-7240.

All OFFICIAL faxes will be handled and entered by the docketing personnel. The date of entry will correspond to the actual FAX reception date unless that date is a Saturday, Sunday, or a Federal Holiday within the District of Columbia, in which case the official date of receipt will be the next business day. The application file will be promptly forwarded to the Examiner unless the application file must be sent to another area of the Office, e.g., Finance Division for fee charging, etc.

- ☐ All responses sent by U.S. Mail should be mailed to:  
**Commissioner for Patents**  
**PO Box 1450**  
**Alexandria, VA 22313-1450**
- ☐ Hand-delivered responses should be brought to Crystal Park Two, 2021 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist). All hand-delivered responses will be handled and entered by the docketing personnel. Please do not hand deliver responses directly to the Examiner.
- ☐ Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 305-9600.
- ☐ Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Opie at (703) 308-9120 or via e-mail at [George.Opie@uspto.gov](mailto:George.Opie@uspto.gov). Internet e-mail should not be used where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the Applicant. Sensitive data includes confidential information related to patent applications.

  
**ZARNI MAUNG**  
**PRIMARY EXAMINER**